

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

SHELDON SMITH,

Petitioner,

-v-

**WARDEN,
Chillicothe Correctional Institution**

Respondent.

Case No. 3:13-cv-330

**Judge Thomas M. Rose
Magistrate Judge Michael R. Merz**

**ENTRY AND ORDER OVERRULING SMITH'S OBJECTIONS (Doc. #36)
TO THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATIONS (Doc. #33); OVERRULING SMITH'S
COUNSEL'S OBJECTIONS (Doc. #43) TO THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS (Doc. # 33), OVERRULING
SMITH'S OBJECTIONS (Doc. #48) TO THE MAGISTRATE JUDGE'S
SUPPLEMENTAL REPORT AND RECOMMENDATIONS (Doc. #47);
OVERRULING SMITH'S OBJECTIONS (Doc. # 55) TO THE
MAGISTRATE JUDGE'S SECOND SUPPLEMENTAL REPORT AND
RECOMMENDATIONS (Doc. #50); ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #33),
SUPPLEMENTAL REPORT AND RECOMMENDATIONS (Doc. #47) AND
SECOND SUPPLEMENTAL REPORT AND RECOMMENDATIONS (Doc.
#50) IN THEIR ENTIRETY; DISMISSING SMITH'S PETITION FOR A
WRIT OF HABEAS CORPUS WITH PREJUDICE; DENYING A
CERTIFICATE OF APPEALABILITY; CERTIFYING THAT ANY
APPEAL WOULD BE OBJECTIVELY FRIVOLOUS AND
TERMINATING THIS CASE**

Petitioner Sheldon Smith ("Smith") filed a Petition for a Writ of Habeas Corpus. (Doc. #1.) On November 12, 2014, Magistrate Judge Michael R. Merz issued a Report and Recommendations recommending that Smith's Petition be dismissed with prejudice. (Doc. #33.) On November 24, 2014 Smith objected. (Doc. # 36.) On November 26, 2014, Smith's Counsel filed these same objections (Doc. #43).

On December 1, 2014, this Judge recommitted this matter to the Magistrate Judge for further review. (Doc. #46.) The Magistrate Judge then issued a Supplemental Report and Recommendations again recommending that Smith's Petition be dismissed with prejudice (doc. #47) to which Smith objected (doc. #48).

This Judge again recommitted this matter to the Magistrate Judge (doc. #49) following which the Magistrate Judge issued a Second Supplemental Report and Recommendations again recommending that Smith's Petition be dismissed with prejudice (doc. #50). Smith objected to the Second Supplemental Report and Recommendations (doc. #55) and the time has run and the Warden has not responded to Smith's latest Objections. Smith's latest Objections (doc. #55) are, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Smith's Objections to the Magistrate Judge's Second Supplemental Report and Recommendations are not well-taken, and they are hereby OVERRULED as are Smith's Objections to the Magistrate Judge's Supplemental Report and Recommendations (doc. #48), Smith's Objections to the Magistrate Judge's Report and Recommendations (doc. #36) and Smith's Counsel's Objections to the Magistrate Judge's Report and Recommendations (doc. #43). The Magistrate Judge's Second Supplemental Report and Recommendations, Supplemental Report and Recommendations and Report and Recommendations are adopted in their entirety.

Smith's Petition for a Writ of Habeas Corpus is dismissed with prejudice. Further, Smith is denied a certificate of appealability and any appeal of this matter would be objectively

frivolous. Finally, the captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and **ORDERED** in Dayton, Ohio this Tenth Day of February, 2015.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Sheldon Smith at his last address of record